

Appl. No. 10/754,178
Reply to Office Action of April 12, 2006

Attorney Docket No. 2003-0250 / 24061.144
Customer No. 42717

REMARKS

Claims 1-32 are present in the application. In view of the remarks that follow, Applicants respectfully request reconsideration.

Allowed Claims

Noted with appreciation is the indication in the Office Action that Claims 1-26 have been allowed.

Comment on Statement of Reasons for Allowance

In lines 14-17 on page 3 of the Office Action, the Examiner sets forth a reason why Claims 1-26 are considered to recite allowable subject matter. Applicants agree that Claims 1-26 are allowable. However, Applicants do not agree in all respects with the stated reason. For example, Applicants believe that the stated reason should not be interpreted to mean that it is the only reason supporting the allowability of Claims 1-26, and that there are no other reasons that separately and independently support the allowability of Claims 1-26.

Second Paragraph of 35 U.S.C. §112

The Office Action rejects Claims 27-32 under the second paragraph of 35 U.S.C. §112 as indefinite. This ground of rejection is respectfully traversed, for the following reasons. The Office Action asserts that the word "controller" in Claim 27 is indefinite, because it could be interpreted to mean either (1) control of the formation of a polymer, or (2) control of an etch speed. However, this does not mean that the word controller is indefinite. Instead, it simply means that the word "controller" is broad, and in particular is broad enough to potentially encompass control of polymer formation and/or control of etch speed. The fact that a claim is broad does not automatically mean it is indefinite. In this regard, the attention of the Examiner is respectfully directed to MPEP §2173.04, the title of which emphasizes that "Breadth Is Not Indefiniteness". This MPEP section states that:

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Breadth of a claim is not to be equated with indefiniteness. *In re Miller*, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). If the scope of the subject matter embraced by the claims is clear, and if applicants have not otherwise indicated that they intend the invention to be of a scope different from that defined in the claims, then the claims comply with 35 U.S.C. 112, second paragraph.

It is respectfully submitted that Applicants' Claim 27 is broad, but not indefinite. In view of statements made in the Office Action, it appears that the Examiner would like to see Claim 27 amended in a manner that narrows the scope of the term "controller". However, Applicants respectfully submit that this would not be proper. Applicants are entitled to claim their invention broadly (provided that the claims are distinct from the prior art). The Examiner should not be attempting to force Applicants to adopt narrower wording for a broad claim, so long as the claim is distinct from the prior art.

For the foregoing reasons, it is respectfully submitted that Claim 27 is broad but not indefinite, and thus is in compliance with the second paragraph of §112. Accordingly, Applicants respectfully request that the §112 rejection be withdrawn.

Independent Claim 27 is Not Anticipated Under §102

Independent Claim 27 stands rejected under 35 U.S.C. §102 as anticipated by Vahedi U.S. Published Patent Application No. 2003/0148224. This ground of rejection is respectfully traversed, for the following reasons. The PTO specifies in MPEP §2131 that, in order for a reference to anticipate a claim under §102, the reference must teach each and every element recited in the claim. Claim 27 of the present application expressly recites

forming a patterned photoresist layer . . . above the material layer; and

etching the material layer while protecting the photoresist layer from etching . . .

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The rejection of Claim 27 is based on paragraphs [0059] to [0068] in Vahedi, which discuss Vahedi's Figure 3A. In Figure 3A, a polymer film 24 provides limited protection for photoresist lines 18a-18d during etching of the photoresist lines 18a-18d. This is different from Claim 27. In particular, Claim 27 recites protecting a photoresist during etching of a material layer located below the photoresist. As shown in Figure 3C of Vahedi, when etching of the photoresist 18 is completed, the protective polymer film 24 is gone. Thereafter, Vahedi etches the material 15 located below the photoresist 18, but the photoresist 18 is no longer protected by the layer 24, and thus the photoresist 18 is etched away as the material 15 is etched. When the etching of the material 15 is completed, only a little of the unprotected photoresist 18 is still present (as shown at 18a-18d in Figure 4 of Vahedi).

Vahedi thus does not disclose each and every element recited in Claim 27, as required by MPEP §2131, and therefore does not anticipate Claim 27 under §102. Accordingly, Claim 27 is believed to be allowable, and notice to that effect is respectfully requested.

Dependent Claims

Claims 28-32 each depend directly or indirectly from Claim 27, and are also believed to be distinct from the art of record, for example for the same reasons discussed above with respect to Claim 27.

Conclusion

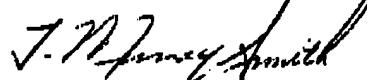
Based on the foregoing, it is respectfully submitted that all of the pending claims are fully allowable, and favorable reconsideration of this application is therefore respectfully requested. If the Examiner believes that examination of the present application may be advanced in any way by a telephone conference, the Examiner is invited to telephone the undersigned attorney at 972-739-8647.

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Although Applicants believe that no fee is due in association with the filing of this paper, the Commissioner is hereby authorized to charge any fee required by this paper, or to credit any overpayment, to Deposit Account No. 08-1394 of Haynes and Boone LLP.

Respectfully submitted,



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Enclosures: None

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